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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

In re R.S. et al., Coming Under the
Juvenile Court Law.

H045023
(Santa Clara County
Super. Ct. Nos. 17JD024527 &
17JD024528)

SANTA CLARA COUNTY
DEPARTMENT OF FAMILY &
CHILDREN’S SERVICES,

Plaintiff and Respondent,

v.

A.C.,

Defendant and Appellant.

Mother, A.C. appeals a dispositional order entered pursuant to Welfare and Institutions section 300, declaring her children R.S. and T.S dependents, and removing them from the custody of both parents.¹ Mother fails to raise any arguable issues, and so we must dismiss the appeal. (*In re Phoenix H.* (2009) 47 Cal.4th 835 (*Phoenix H.*)).

I. PROCEDURAL BACKGROUND

R.S and T.S. were taken into protective custody after both parents engaged in a physical fight over father’s cell phone and were arrested. On May 24, 2017, the Santa Clara County Department of Family & Children’s Services (“Department”) filed a

¹ All further unspecified statutory references are to the Welfare and Institutions Code.

petition pursuant to section 300 alleging that Mother and Father had engaged in incidents of domestic violence in the presence of the children and that Mother was a daily user of marijuana in the presence of the children. Subsequent amended petitions alleged that Father also had a substance abuse history and was using marijuana on a daily basis in the presence of the children, that Mother had an untreated mental health issue and in 2015 had been diagnosed with depression, and that Mother was unable to regulate her emotions during visits with the children.

Prior to the dispositional hearing, the Department filed multiple reports. In those reports, both the parents and witnesses denied that the parents ever fought physically in front of the children, and witnesses denied ever seeing the parents under the influence of drugs. By contrast, the Department submitted independent evidence of Mother's multiple positive drug tests and of her multiple requests for restraining orders against Father. In a final report, the Department disclosed that the older child, R.S., had actually witnessed many physically violent altercations between the parents. R.S. also reported that when his parents hit each other, they (mostly Father) would also hit him. He claimed to have been hit many times, and also claimed that the parents hit baby T.S. because they did not know how to stop her from crying.

Although Mother cooperated with the Department, visited the children regularly and took concrete steps towards addressing her issues, at the dispositional hearing the court found that the Department had provided substantial evidence to support the allegations in the petition. The court further found Mother's testimony to be not credible. The court sustained the petition and found that there was clear and convincing evidence of the need to remove the children pursuant to section 361, subdivision (c). This timely appeal ensued.

On appeal, we appointed counsel to represent Mother. Appointed counsel filed a letter brief pursuant to *Phoenix H.*, stating the case and facts, but raising no arguable issues on appeal. Pursuant to *Phoenix H.* this court notified Mother of her right to submit

a request showing good cause to file a supplemental brief. Thereafter, Mother sought permission to file a supplemental brief, attaching the proposed brief to her request. On November 8, 2018, we granted her request and filed the attached brief. (*Phoenix H.*, *supra*, 47 Cal.4th at pp. 844-845.)

II. DISCUSSION

Mother's supplemental brief raises several issues, including the following: 1) that the court violated her right to due process; 2) that the court abused its discretion; 3) that the evidence was insufficient to support the petition; 4) that she was not provided notice; 5) that the Department made insufficient reasonable efforts to prevent removal of the children or to provide reunification services. All of Mother's arguments suffer from the same defect. Although she enumerates multiple ways in which she claims her rights have been violated, she fails to provide any specific facts or references to the record demonstrating these violations. For example, she contends that she was only provided notice of the hearing one day before the hearing. However, she does not point to anything in the record to support this contention of delayed notice. In another part of her brief, she contends that the judge was unfair and biased because he treated other cases with similar allegations differently. She again provides no factual support for this contention beyond her bald assertion. Arguments in a brief that are not supported by specific facts or citations to the record cannot raise arguable issues on appeal. (See *In re S.C.* (2006) 138 Cal.App.4th 396, 408; *Annod Corp. v. Hamilton & Samuels* (2002) 100 Cal.App.4th 1286, 1301.) Without specific reference to the record in this case to support her assertions, this court cannot evaluate whether the facts are as Mother represents or whether they support her her claims of error.

Mother also contends that the trial court abused its discretion when it found that Mother was not credible, and that there was insufficient evidence to support the removal order. Again, beyond the bare assertion that the judge was biased, Mother fails to provide any basis in fact or the record demonstrating bias in the court's conclusion that

Mother was untruthful. She also fails to specifically challenge any of the independent evidence presented by the Department supporting the allegations in the petition or to explain why that evidence was not sufficient to support the court's findings. As a result, Mother's supplemental brief fails to sufficiently argue that the juvenile court erred in assuming jurisdiction, declaring the children dependents, or ordering them removed from the parents.

Having failed to raise any arguable issue on appeal from the order declaring the children dependents and removing them from the parents, Mother's appeal must be dismissed.

III. DISPOSITION

The appeal by Mother A.C. is dismissed.

Greenwood, P.J.

WE CONCUR:

Elia, J.

Grover, J.

In re R.S., et al.; DFCS v. A.C.
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